

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6792 OF 2003

Sharad Ankush Aroskar Petitioner.

Versus

Pfizer Incorporated & another.. Respondents.

Mr. R.S.Apte with Mr. N.R.Bubna for the Petitioner.

Mr. Aditya Chitale for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : JANUARY 28, 2005.

P.C.:

Rule.

2. Mr. Chitale, learned Counsel appears and waives service of Rule on behalf of the respondents.

3. By consent, rule made returnable and taken up for hearing forthwith.

4. The petitioner, i.e. the plaintiff has challenged the order below Exhibit 13 in Regular Civil Suit No. 432 of 2000 by which the learned 11th Joint Civil

Judge, Junior Division, Kolhapur deleted the Defendant No.1 from the array of parties.

5. The petitioner appears to have been employed by defendant No.2 and has filed this suit inter alia for damages specified in paragraph 7 of the plaint. The amount claimed by the petitioner include the difference in the amount of ex-gratia paid and payable to him, damages for mental stress and agony, etc.

6. From the averments in the plaint, it appears that the defendant No.1 has been joined as a party because it is said to have control over general administration of its units, one of such unit being defendant No.2, which was the actual employer of the petitioner. In paragraph 8 of the plaint, the plaintiff has made the following averments:

"8. The plaintiff therefore prays for a decree against the defendants or against the responsible defendant for Rs.96,385/- together with interest thereon at the rate of 24% per annum from the date of notice till realisation and costs of suit."

7. In spite of the above, the learned trial Judge has observed that the plaintiff has not specifically claimed any relief from defendant No.1. This does not appear to be so. In the circumstances, the impugned order is liable to be set aside since it is passed on the basis that no relief is claimed against defendant No.1.

8. The impugned order is, therefore, set aside. It is, however, made clear that the observations made above are limited to the setting aside of the impugned order and would have no bearing on the liability of any of the defendants whatsoever. Rule is made absolute in above terms.

9. There shall be no order as to costs.

Sd/-

S. A. BOBDE, J.